

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO: 10-md-02183-PAS**

IN RE: Brican America LLC Equipment Lease
Litigation

This Document Relates to All Actions

STIPULATED PROTECTIVE ORDER

The parties having agreed that certain business, financial and personnel information furnished and to be furnished by the parties to each other and their attorneys contains and constitutes confidential information which shall be treated as such by the parties and their attorneys, and the parties having determined that a protective order should be entered herein, assuring that all such information furnished by each party as a part of discovery in this case or otherwise is used only for purposes of this case and not used for any other purpose or disclosed to anyone except as necessary for purposes of this case;

IT IS THEREFORE STIPULATED AND AGREED that, subject to further Order of the Court:

1. All above described information furnished by the parties to each other shall be marked "Confidential" and shall be protected from disclosure and/or use for any purpose other than the purposes of this litigation, in the manner hereinafter provided. For purposes of this "Order", information furnished by each party means all documents described above and other tangible things produced herein by each party, including discovery responses, and any deposition testimony of each party, its employees, its consultants, or its expert witnesses concerning such documents or the information contained therein.

2. Disclosure and use of such information furnished by each party shall be permitted only to and by the other party, its counsel, and any expert or consultant retained by that party and their attorneys, except as prohibited herein, for purposes of this action and only upon the terms set

out in this Order. The parties to this Order will carefully consider and evaluate whether the documents are truly confidential prior to making such designations.

Every person permitted to view information furnished by each party shall agree that he or she will abide by the terms of this Order. Any party may question the confidential designation of another party **by notifying the Court's paired Magistrate Judge of a discovery dispute pursuant to Attachment A of this Order, and placing the dispute on the next available discovery calendar.**¹ It is anticipated by the parties that such a challenge would be made in very rare circumstances, and after all efforts to resolve the issue between the parties have failed.

3. Each party's counsel shall instruct and admonish any consultant or expert retained on behalf of that party to not disclose any such confidential information furnished by the other party to anyone else and to not use such information for any purpose other than this action.

4. Each party's counsel shall retain the information furnished by the other party in their actual physical possession and control including all documents and copies thereof.

5. The Clerk of Court shall maintain under seal all documents and transcripts of deposition testimony filed in court in this litigation which have been designated, in whole or in part, as confidential by a party to this action. The burden is on each party to ensure that the Clerk is aware of, and follows, the applicable provisions of this Order.

6. In the event that either party wishes to use any confidential information in any affidavits, briefs, memoranda of law, or other papers filed in court in this litigation, such confidential information used therein shall be maintained under seal by the Court.

7. This Order extends only to discovery and, upon the trial of this case, the documents and information designated as confidential shall be admissible in evidence subject to all applicable rules of evidence and procedure, but either party may make additional application to the Court

¹ The Parties' proposed Order has been adopted as written with the exception of the language presented in bold.

requesting that confidential information used therein shall be maintained under seal by the Court.

8. At the conclusion of this litigation, each party's counsel shall return all confidential information furnished by the other party to counsel, including all copies thereof.

9. No copies shall be made of the confidential information furnished by either party for their own personal use or for use in any other litigation without prior Order of this Court.

10. This Order is binding upon the parties, their counsel, and any experts or consultants retained by any party and any violation of this Order shall be punishable by contempt of court.

11. Any party is free to release from confidential status any document it produced without further Order of the Court.

12. This Order shall continue in full force and effect after the conclusion of this consolidated action.

DONE AND ORDERED in Miami, Florida, this ¹²20 day of December, 2010.


PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record

**DISCOVERY PROCEDURE FOR
MAGISTRATE JUDGE JOHN J. O'SULLIVAN**

The following discovery procedures apply to all civil cases assigned to United States District Judge Patricia A. Seitz.

If parties are unable to resolve their discovery disputes without Court intervention, Magistrate Judge John J. O'Sullivan will set the matter for a hearing. Discovery disputes are generally set for hearings on Tuesdays and Thursdays in the 5th Floor Courtroom, United States Courthouse, 301 N. Miami Avenue, Miami, Florida.

If a discovery dispute arises, the moving party must seek relief within fifteen (15) days after the occurrence of the grounds for relief, by contacting Magistrate Judge O'Sullivan's Chambers and placing the matter on the next available discovery calendar. Magistrate Judge O'Sullivan's telephone number is (305) 523-5920.

After a matter is placed on the discovery calendar, the movant shall provide notice to all relevant parties by filing a Notice of Hearing. The Notice of Hearing shall briefly specify the substance of the discovery matter to be heard and include a certification that the parties have complied with the pre-filing conference required by Southern District of Florida Local Rule 7.1(a)(3). Generally, no more than ten (10) minutes per side will be permitted.

No written discovery motions, including motions to compel and motions for protective order, shall be filed unless the parties are unable to resolve their disputes at the motion calendar, or unless requested by Magistrate Judge O'Sullivan. It is the intent of this procedure to minimize the necessity of motions.

The Court expects all parties to act courteously and professionally in the resolution of their discovery disputes and to confer in an attempt to resolve the discovery issue prior to setting the hearing. The Court may impose sanctions, monetary or otherwise, if the Court determines discovery is being improperly sought or is not being provided in good faith.

Attachment A